

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 1-9 were pending in this application when last examined.

Claims 1-5 and 9 were withdrawn as non-elected subject matter.

Claims 6-8 were examined on the merits and stand rejected.

Claims 6 and 8 are amended herein to clarify the claimed invention. Support for these amendments may be found in the claims as originally filed and in the specification on page 3, lines 1-7.

Claim 6 is amended so that the bacterium included in the control agent or material is limited to the DAIJU-SIID2550 strain (accession number: FERM BP-10114). This amendment is based on original claim 2.

Because claim 6 as amended does not refer to claim 1, the clause "the plant pathogenic bacteria, fungi, or viruses" is amended to "the plant pathogenic bacteria, fungi, or viruses," accordingly.

A typographical error "contaning" in claim 8 is amended to "containing." The term "bacteria", which is a plural form, in claim 8 is revised to its singular form, "bacterium".

No new matter has been added.

II. INFORMATION DISCLOSURE STATEMENT

Applicants note that the Examiner did not consider the reference designated AG in the IDS of August 25, 2006 on the basis that this reference (WO 00/49875) is not of record at the PTO. Applicants respectfully assert that this was properly submitted to the PTO on the date indicated. For the Examiner's reference, Applicants enclose herewith another copy of this reference along with evidence of its prior submission. Applicants respectfully request that the Examiner officially consider this reference and indicate whether it has been considered in the next Office Action.

III. NOVELTY REJECTION

On pages 2-4 of the Office Action, claims 6-8 are rejected under 35 USC 102(b).

A) Claims 6 and 8 are rejected under 35 USC 102(b) as being clearly anticipated by Kamata et al. (JP 08-175919), or Takahashi et al. (JP 02-209803), or Murayama et al. (JP 2003-289854), or Fushimi et al. (JP 05-051305), or Minato et al. (JP 2001-346407), or Inami et al. (JP 2003-277210), or Tateishi (JP 2003-089612), or Shoda et al. (JP 06-133763), or Kinooka et al. (JP 05-091869), of record.

B) Claims 6-8 are rejected under 35 USC 102(b) as being clearly anticipated by Phae et al., of record.

C) Claims 6-8 are rejected under 35 USC 102(b) as being clearly anticipated by Bergstrom et al. (2003/0082792), of record.

D) Claims 6-8 are rejected under 35 USC 102(b) as being clearly anticipated by Rossall et al. (USPN 5,344,647), of record.

E) Claims 6-8 are rejected under 35 USC 102(b) as being clearly anticipated by Neyra et al. (USPN 5,589,381).

F) Claims 6-8 are rejected under 35 USC 102(b) as being clearly anticipated by Marrone et al. (USPN 6,004,774).

Applicants respectfully traverse this rejection as applied to the amended claims.

Applicants note that the method according to any one of claims 6 to 8 as amended requires application of a bacterium which is the DAIJU-SIID2550 strain (accession number: FERM BP-10114) to a host plant of plant pathogenic bacteria, fungi, or viruses.

None of the cited references discloses the bacterium. Thus, the method according to any one of claims 6 to 8 as amended is not anticipated by the cited references.

For the above-noted reasons, Applicants respectfully submit that the novelty rejections are untenable, as applied to the amended claims, and should be withdrawn.

CONCLUSION

In view of the foregoing Amendments and Remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is authorized to charge any deficiency or to credit any overpayment associated with this communication to Deposit Account No. 23-0975.

Respectfully submitted,

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